



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,775	06/29/2001	Kevin Huennekens	5793.3068-00	9815
22852	7590	10/12/2006	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			APPLE, KIRSTEN SACHWITZ	
			ART UNIT	PAPER NUMBER
			3693	

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
09/897,775	HUENNEKENS ET AL.	
Examiner	Art Unit	
Kirsten S. Apple	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 7/20/2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-66 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

Claim Rejections - 35 USC § 112

In view of the applicants remarks to claims 3, 4 & 7 the 112 rejections is hereby withdrawn.

Claim Rejections - 35 USC § 103

The Examiner has read and reviewed all of the information provided by the Applicant. The examiner rejects as final claims 1-66 under 35 USC 103.

The Applicant attention is re-drawn to the following:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demoff et al. (U.S. Patent 6,456,984 B1) in view of Official Notice

Re claim 1: Demoff discloses:

A method managing financial transactions (with transactions that exceed credit limits), comprising (see Demoff, Abstract):

Comparing

Approving the transaction based on comparison (see Demoff, Figure 8, Item 302)

Although Demoff does not include determining merchant type, the examiner claim official notice credit fraud shut-off business practice. In particular credit card companies have internal business practices that monitors a number of variables and if any of these are meet they employ their "credit fraud shut-off business practice." The monitoring includes but is not limited to: usage at a particular merchant, usage at a particular type of merchant (such as on-line) excessive usage in a time period,

usage in different location. While monitoring these variables if the credit card companies suspect fraudulent behavior they will shut off the credit card immediately. The credit card user will then need to contact the credit card company and verify the transactions before the credit card is reactivated. This situation has personally happen to this examiner a number of time due to a credit card being used at a particular merchant or a large amount of items being purchased at one time.

Although the application is talking about extending additional “temporary credit” and not shutting off a credit card, it is clear that the same business practice could be employed to extend additional temporary credit. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to add determining merchant type as taught in Official Notice to Demoff.

It is clear that one would be motivated to following existing business practices for all processes.

Re claim 2: Demoff discloses:

Determining whether to contact party (see Demoff, column 3, line 35 “request is sent”)

Re claim 3: Official Notice discloses:

Determining whether the potential transaction from a merchant selling food

Approving if yes (see Official Notice, “credit fraud shut-off business practice”)

Re claim 4: Official Notice discloses:

Approving the potential transaction if under a certain dollar amount (see Official Notice, “credit fraud shut-off business practice”)

Re claim 5: Demoff discloses:

Allowing credit analysis to determine approval when available (see Demoff, Figure 8, Item 302)

Re claim 6: Demoff discloses:

Determining a type of product associated with the transaction (see Demoff, Column 7, line 13)

Determining a credit risk (see Demoff, Figure 8, Item 302)

Comparing the product credit risk with threshold value (see Demoff, Figure 8, Item 302)

Approving the transaction based on comparison (see Demoff, Figure 8, Item 302)

Re claim 7: Official Notice discloses:

Approving the potential transaction if under a certain dollar amount (see Official Notice, "credit fraud shut-off business practice")

Determining whether the product is associated with food (see Official Notice, "credit fraud shut-off business practice")

Allocating a low credit risk to the product when the product is determined to be associated with food (see Official Notice, "credit fraud shut-off business practice")

Re claim 8: Official Notice discloses:

Determining a low merchant credit risk for merchant types corresponding to at least one of a restaurant, a grocery store and a fuel dispenser (see Official Notice, "credit fraud shut-off business practice")

Re claim 9: Official Notice discloses:

Determining a low merchant credit risk for merchant types corresponding to merchants associated with a historically low occurrence of fraud (see Official Notice, "credit fraud shut-off business practice")

Re claim 10: Official Notice discloses:

Determining a low merchant credit risk for merchant types corresponding to merchants offering products deemed to be food and gasoline (see Official Notice, "credit fraud shut-off business practice")

Re claim 11: Official Notice discloses:

Determining a high merchant credit risk for merchant types corresponding to at least one of mail order merchants, telephone order merchants, and Internet order merchants. (see Official Notice, "credit fraud shut-off business practice")

Re claim 12: Official Notice discloses:

Determining a high merchant credit risk for merchant types corresponding to merchants associated with a historically high occurrence of fraud. (see Official Notice, "credit fraud shut-off business practice")

Re claim 13: Demoff discloses:

Increasing credit limit by the amount equal to the transaction (see Demoff, Column 7, line 16)

Re claim 14: Official Notice discloses:

Credit limit is known to hold of financial account (the examiner claim Official Notice it is well known to one of ordinary skill in art at the time of the invention that "most customer know their credit limit some do not know or remember it")

Re claim 15: Official Notice discloses:

Credit limit is unknown to hold of financial account (the examiner claim Official Notice it is well known to one of ordinary skill in art at the time of the invention that "most customer know their credit limit some do not know or remember it")

Re claim 16: Demoff discloses:

Financial account is a credit card (see Demoff, Column 1, line 57)

Re claim 17: Demoff discloses:

Declining the potential transaction if the potential transaction + outstanding balance > credit limit by a predetermined amount (see Demoff, Figure 8, Item 306)

Re claim 18: Official Notice discloses:

Adjusting the merchant credit risk based on a time of day the of transaction (see Official Notice, "credit fraud shut-off business practice")

Re claim 19: Official Notice discloses:

Adjusting the merchant credit risk based on the medium in which the customer is making the transaction (see Official Notice, "credit fraud shut-off business practice")

Re claim 20: Official Notice discloses:

Adjusting the merchant credit risk based on the account history of the customer making the transaction (see Official Notice, "credit fraud shut-off business practice")

Re Claims 21-40 & 41-60

Claims 1-20 are similar claims 21-40 & 41-60. It would be obvious to one of ordinary skill in the art that these claim have similar limitation. Therefore, claims 21-40 & 41-60 are rejected based on the information provided regarding claims 1-20.

Claim 61 is similar claim 1.

Claim 62 is similar claim 7.

Claim 63 is similar claim 1.

Claim 64 is similar claim 7.

Claim 65 is similar claim 1.

Claim 66 is similar claim 7.

It would be obvious to one of ordinary skill in the art that these claim have similar limitation. Therefore, claims 61-66 are rejected based on the information provided regarding claims 1 & 7.

Response to Arguments

Applicant's arguments filed 7/20/2006 have been fully considered but they are not persuasive.

In particular, and respect to Claim 1 the Applicant argued 1st: "Demoff fails to disclose 'determining a merchant credit risk associated with the determined merchant type'"

The Examiner refutes the argument made by the Applicant and draws the attention to Demoff, Figure 1, item 24 & 26, clearly identifies the merchant, Figure 8, item 302 shows the approval, it is inherent that the merchant went through a risk assessment review. The examiner has already stated in the first office action that while all merchants are identified they may not be typed.

Applicants argued 2nd, Applicant argues Examiner Official Notice.

The Examiner refutes the argument made by the Applicant and argues that it is "well know in the art at the time of the invention" that credit card companies monitor, type & credit rate merchants. Ask anyone and one of common knowledge in the art, they have probably either personally experienced or friend's credit card being blocked because of "high risk" transactions

they had been making. It is well known in the art to "call your credit card company before you go on a trip overseas." At the airport friends will ask "did you remember to pack your toothbrush and call your credit card company." This is a common practice because merchants are monitored, typed and credit risk score and your card will be blocked. Phone cards employ a similar business practice.

While the Examiner believes that this is such common knowledge that no additional explanation other than Official Notice is needed and the expedite prosecution the Examiner has provided her own affidavit of her own personal experiences of this common practice.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Details

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kirsten S. Apple whose telephone number is 571.272.5588. The examiner can normally be reached on Monday - Friday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached on 571.272.6799. The fax phone number for the organization where this application or proceeding is assigned is 571-272-6126.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KSA

A handwritten signature in black ink, appearing to read "Sough", is overlaid on a large, stylized, loopy line drawing that resembles a signature or a drawing of a hand.